

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1638

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-19-3-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 15. (a) This section does not apply to a school promotional item that has minimal monetary value.**

(b) As used in this section, "school" means any of the following:

- (1) A school corporation.**
- (2) A charter school, including a conversion charter school or a virtual charter school.**
- (3) A nonpublic school that has any students enrolled who receive a choice scholarship under IC 20-51-4.**

(c) A school may not offer or give, as an enrollment incentive, any item that has monetary value, including cash or a gift card that may be used at a retail store, grocery store, online store, or other commercial enterprise, to:

- (1) a prospective student (or the parent of a prospective student) in exchange for enrolling the prospective student at the school; or**
- (2) any person in exchange for referring a prospective student to the school.**

SECTION 2. IC 20-31-2-7, AS ADDED BY P.L.1-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

HEA 1638 — CC 1



2015]: Sec. 7. "Plan" refers to **any of the following:**

- (1) A strategic and continuous school improvement and achievement plan established under this article for a school or school corporation.
- (2) A plan to establish an innovation network school to improve school performance under IC 20-25.7.
- (3) A plan to establish a transformation zone under IC 20-31-9.5-9.5.
- (4) Any plan approved by the state board for the turnaround of a school or school corporation.

SECTION 3. IC 20-31-2-9, AS ADDED BY P.L.229-2011, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. "Special management team" means an entity that **is assigned by the state board under IC 20-31-9-4(b)(1)(B) to manages manage** a turnaround academy in whole or in part.

SECTION 4. IC 20-31-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9.5. "Transformation zone" means a school corporation that has submitted, through its governing body and to the state board, a plan and has been approved to operate under such a plan under IC 20-31-9.5-9.5.

SECTION 5. IC 20-31-9-3, AS AMENDED BY P.L.229-2011, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) This section applies if:

- (1) for a school initially placed in the lowest category or designation before July 1, 2016, in the third year after initial placement in the lowest category or designation, a school still remains in the lowest category or designation; or
- (2) for a school initially placed in the lowest category or designation after June 30, 2016, in the year after the year in which the school is initially placed in the lowest category or designation, a school remains in the lowest category or designation.

(b) The state board ~~shall~~ **may** establish and assign an expert team to the school. The expert team:

- (1) must include representatives from the community or region that the school serves; and
- (2) may include:
 - (A) school superintendents, members of governing bodies, and teachers from school corporations that are in high categories or designations; and



(B) special consultants or advisers.

(c) The expert team shall:

- (1) assist the school in revising the school's plan; and
- (2) recommend changes in the school that will promote improvement, including the reallocation of resources or requests for technical assistance.

(d) The governing body of the school corporation in which a school to which this section applies is located may petition the state board to immediately restructure the school by presenting a written plan to the state board setting forth the proposed intervention for the school. If the state board approves the petition and accepts the plan, the school:

- (1) operates under the applicable provisions of IC 20-31-9.5; and
- (2) is carried forward in the same performance category or designation in which the school is placed at the time the state board accepts the plan.

SECTION 6. IC 20-31-9-4, AS AMENDED BY P.L.229-2011, SECTION 189, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) This section applies if:

- (1) for a school initially placed in the lowest category or designation of school improvement before July 1, 2016, in the fifth year after initial placement in the lowest category or designation, a school still remains in the lowest category or designation; or**
- (2) for a school initially placed in the lowest category or designation of school improvement after June 30, 2016, in the third year after initial placement in the lowest category or designation, a school remains in the lowest category or designation.**

(b) The state board shall do the following:

- (1) Hold at least one (1) public hearing in the school corporation where the school is located to consider and hear testimony concerning the following options for school improvement:

(A) Merging the school with a nearby school that is in a higher category.

(B) Assigning a special management team to operate all or part of the school.

(C) Approving the school corporation's plan to improve the school through creation of a transformation zone.

(D) Approving the school corporation's plan to improve the school through creation of an innovation network school under IC 20-25.7-4.

~~(E)~~ (E) The department's recommendations for improving the



school.

~~(D)~~ (F) Other options for school improvement expressed at the public hearing, including

(G) Closing the school.

~~(E)~~ Revising the school's plan in any of the following areas:

(i) Changes in school procedures or operations;

(ii) Professional development;

(iii) Intervention for individual teachers or administrators.

(2) If the state board determines that intervention will improve the school, implement at least one (1) of the options listed in subdivision (1).

(c) The state board may delay interventions under this section for one (1) year if the affected school demonstrates that, despite remaining in the lowest category or designation, a majority of students in the school demonstrated academic improvement during the preceding school year.

~~(c)~~ (d) Unless the school is closed or merged, a school that is subject to improvement under this section becomes a turnaround academy under IC 20-31-9.5.

(e) For a school initially placed in the lowest category or designation of school improvement after June 30, 2016, the school corporation shall provide a facilities master plan and an asset inventory for the school to the state board by December 31 following the fourth consecutive year in the lowest performance category or designation.

(f) The following procedures apply if the state board determines that a school should be closed under subsection (b)(1)(G):

(1) The state board shall request from the school corporation an alternative plan to the closure of the school. The school corporation shall provide the plan within sixty (60) days of the state board's request.

(2) At least two-thirds (2/3) of all members of the board vote to close the school.

(3) Before the closure of the school, the state board shall review a student reassignment plan from the school corporation.

SECTION 7. IC 20-31-9.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 0.5. (a) The state board must approve any contracts necessary to implement IC 20-31-9 and this chapter.**

(b) The state board may direct the department to assist the state



board with the state board's duties under IC 20-31-9 and this chapter, including, but not limited to:

(1) providing data to the state board that the state board determines is necessary to execute such duties; and

(2) entering into contracts as determined by the state board.

SECTION 8. IC 20-31-9.5-1, AS ADDED BY P.L.229-2011, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) None of the following may be considered a school employer under ~~IC 20-29-6~~ **IC 20-29-2-15** with respect to a turnaround academy:

(1) The state.

(2) The state board.

(3) A special management team assigned by the state board under IC 20-31-9-4. ~~to operate a school as a turnaround academy.~~

(b) A special management team assigned under IC 20-31-9-4 ~~to operate a school as a turnaround academy~~ shall make all personnel decisions in the school. In operating ~~the~~ a school as a turnaround academy under this chapter, ~~the~~ a special management team is not bound by a contract entered into under IC 20-29.

SECTION 9. IC 20-31-9.5-2, AS ADDED BY P.L.229-2011, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) If the state board assigns a special management team under IC 20-31-9-4 to operate a school as a turnaround academy, for as long as the special management team operates the turnaround academy **the following requirements apply:**

(1) The special management team ~~shall continue to use the school building, the accompanying real property, and the building's contents, equipment, and supplies; and has the right to use any school building and all facilities and property otherwise part of the school and recognized as part of the facilities or assets of the school before its placement as a turnaround academy, including the building's contents, equipment, and supplies, and is entitled access to such additional facilities as were typically available to the school and its students, faculty, and staff before its placement as a turnaround academy. The special management team shall maintain and repair the buildings and grounds in a manner that is at least consistent with the maintenance and repair of the other buildings and grounds within the school corporation. The special management team shall maintain the building's contents and equipment in a reasonable manner.~~

(2) ~~the school corporation shall continue to:~~



(A) provide transportation for students attending the turnaround academy at the same level of service the school corporation provided before the school became a turnaround academy; and

(B) maintain and repair the buildings and grounds consistent with the maintenance and repair to the school corporation's other buildings and grounds.

The school corporation shall consult with The special management team ~~regarding these matters.~~ **shall receive, control, and expend a pro rata share of the property tax revenue distributed to the school corporation under IC 6-1.1-27-1. The amount of property tax revenue shall be calculated by the department of local government finance on the basis of student enrollment for students attending that school who have legal settlement in the taxing unit other than the amount obligated to pay for existing debt service. The school corporation shall remit this amount to the special management team at a frequency determined by the state board in consultation with the department and the school corporation. This subsection does not apply if the school corporation provides services and funding to the special management team pursuant to an operations, maintenance, and repair agreement entered into before July 1, 2015.**

(3) The special management team shall either:

(A) provide transportation for students attending the turnaround academy; or

(B) contract with the school corporation to provide transportation for students attending the turnaround academy.

Transportation must be provided at the same level of service the school corporation provided before the school became a turnaround academy.

(b) The school corporation:

(1) may not take action adverse to the special management team's operation of the school, including, but not limited to, taking action to dispose of or cloud the title of the real property on which the school is located or removing or disposing of personal property located in or assigned to the school; and

(2) shall, not later than forty-five (45) days after the state board executes a contract with a special management team under section 7 of this chapter, provide to the special



management team all student records and other data in a manner consistent with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99) for the students who attended the school immediately before the school qualified for intervention under IC 20-31-9.

~~(b)~~ (c) If the special management team contracts with a school corporation for goods or services, the school corporation may not charge the special management team more for the goods or services than the school corporation pays for the goods or services.

(d) If the state board determines that the school corporation has not complied with any provision of subsection (b) or (c), the state board may order the department:

(1) to withhold from the school corporation additional state funds otherwise to be distributed to the school corporation; and

(2) to distribute those funds to the special management team; in order to permit the special management team to operate the school notwithstanding the school corporation's noncompliance with subsection (b) or (c).

~~(c)~~ (e) The special management team and the school corporation's board shall hold a joint public meeting at least two (2) times each year to discuss issues and progress concerning the turnaround academy.

SECTION 10. IC 20-31-9.5-3, AS ADDED BY P.L.229-2011, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Turnaround academies are eligible to receive building and technology loans administered by the state board from the common school fund.

(b) A student who attends a turnaround academy or another school subject to intervention under this chapter remains, under IC 20-43-4-1, an eligible pupil of the school corporation where the student has legal settlement.

(c) The state board, based upon recommendations received from the department, shall determine the amounts of state tuition support and federal funds that are necessary to fund options for improvement implemented by the state board under this chapter with respect to each turnaround academy.

(d) The department shall do the following:

(1) Present recommendations for state tuition support and federal funding amounts to the state board before the start of each fiscal year for each year during the intervention at a schedule determined by the state board.

~~(b)~~ (2) Withhold from state tuition support and federal funds



otherwise to be distributed to the school corporation of the school operated as a turnaround academy under this chapter the amount determined under subsection (c) for the affected students. The amount withheld under this subdivision may not exceed the total per pupil funding for the affected students.

~~(2)~~ **(3)** Enter into any contracts necessary to implement the options for improvement implemented for the school by the state board, including contracts with a special management team assigned under IC 20-31-9-4 to operate the school as a turnaround academy. **All contracts are subject to approval by the state board before execution. All contracts must be submitted to the state board for the state board's approval at least sixty (60) days prior to execution.**

~~(3)~~ **(4)** Make payments under the contracts entered into under subdivision ~~(2)~~ **(3)** with funds withheld from the school corporation under subdivision ~~(1)~~: **(2)**.

SECTION 11. IC 20-31-9.5-5, AS ADDED BY P.L.229-2011, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2015]: Sec. 5. (a) The executive of a city or county in which one (1) or more turnaround academies are located may petition the state board to oversee the special management team. The petition must include the following:

- (1) The names of one (1) or more turnaround academies located within the executive's jurisdiction for which the executive wishes to conduct oversight.
- (2) The functions the executive wishes to perform.
- (3) Information on how and by whom those functions will be carried out.

(b) The state board may approve or not approve a petition under this section in whole or part.

(c) This section expires July 1, 2015.

SECTION 12. IC 20-31-9.5-7, AS AMENDED BY P.L.33-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) If the state board assigns a special management team, ~~to a school~~, the ~~state board~~ **department** shall enter into a contract with a special management team. ~~that includes the following provisions:~~ **The terms of the contract must specify the following:**

- (1) A requirement that the special management team and the governing body conduct a public meeting two (2) times each year to provide a report concerning:
 - (A) student achievement of affected students; and



(B) the condition of the school property and to address issues related to the school property.

(2) The amount of local, state, and federal funding, including tuition support, to be distributed to the school.

~~(2)~~ **(3)** A requirement that the student instruction must be provided by teachers licensed under IC 20-28-5.

~~(3)~~ **A specification that the length of the contract is five (5) years.**

(4) The performance goals and accountability metrics agreed upon for the school.

(5) Grounds for termination of the contract, including the right of termination if the special management team fails to do any of the following:

(A) Comply with the conditions or procedures established in the contract.

(B) Meet the state's financial management and government accounting requirements.

(C) Comply with applicable laws.

(D) Meet the performance goals and accountability metrics agreed upon under subdivision (4).

(b) The special management team shall have full autonomy to operate the school as provided in the contract described in subsection (a).

(c) The term of the contract may not exceed five (5) years. The contract may be extended after the initial term at the direction of the state board.

~~(b)~~ **(d)** Individuals employed by the special management team are entitled to participate in: ~~either:~~

(1) the state teachers' retirement fund created by IC 5-10.4; or

(2) the public employees' retirement fund created by IC 5-10.3; or

(3) another employee pension or retirement fund.

~~(e)~~ **Employees of a special management team are not required to organize and collectively bargain under IC 20-29-6.**

SECTION 13. IC 20-31-9.5-8 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 8: (a) If the state board, upon remand of the Marion County Circuit Court case of Board of School Commissioners of the City of Indianapolis v. Indiana State Board of Education and Indiana Department of Education (cause number 49D03-1206-MI-023257), determines that the Indianapolis public school corporation or any other school corporation is entitled to a distribution to correct the amount that was withheld under IC 20-31-9.5 during July through December 2012 from state tuition support and federal funds otherwise to be distributed to the school corporation, the following apply:



- (1) The state board shall make distributions to the following:
 - (A) The Indianapolis public school corporation;
 - (B) Any other school corporation affected by a redetermination of the amount that was withheld under IC 20-31-9.5 during July through December 2012.
- (2) Before making a distribution to a school corporation under this section, the state board must obtain from the recipient school corporation an agreement that the school corporation will dismiss and not pursue any claims against the state or any state officer or entity, the special management team, or the turnaround academy with regard to distributions received by the special management team or turnaround academy under IC 20-31-9.5 during July through December 2012.

(b) There is appropriated from the state general fund to the state board for the 2012-2013 state fiscal year, seven million four hundred five thousand eight hundred ninety-two dollars (\$7,405,892) to make distributions as provided in subsection (a):

SECTION 14. IC 20-31-9.5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 9.5. (a) The governing body of a school that has been placed in the lowest two (2) categories or designations may submit a plan to the state board to create a transformation zone within the school corporation. A plan may be developed with the assistance of the department.**

(b) The state board shall grant the designation as a transformation zone unless the state board concludes that the submitted plan does not substantially meet the criteria set forth in this section. All plans must be submitted to the state board not later than April 15, 2016, or April 15 each year thereafter. All plans must be approved or denied by the state board not later than July 1 of the first year of implementation.

(c) Each plan must include the following information:

- (1) An organizational chart that demonstrates that the leader of the transformation zone reports directly to the school corporation's superintendent.**
- (2) A description of the innovations the school corporation will implement, which may include:**
 - (A) innovations in school staffing;**
 - (B) curriculum and nonmandated assessments;**
 - (C) class scheduling;**
 - (D) the length of the school day or year;**
 - (E) the use of financial and other resources;**



(F) teacher recruitment, employment, and compensation;
and

(G) other innovations.

(3) The objective annual student performance and growth or improvement performance gains that the school corporation expects to achieve over the next five (5) years.

(4) A budget demonstrating financial sustainability of the transformation zone without the use of special turnaround funding at the end of the fifth year of operation, with lower amounts of special turnaround funding in the fourth and fifth years.

(5) A description of any regulatory or district policy requirements, subject to the the state board's approval, that would need to be waived for the school corporation to implement the transformation zone.

(d) Subject to subsection (e), a school within the transformation zone that is not operated by a special management team is not subject to IC 20-29 unless the school corporation voluntarily recognizes an exclusive representative under IC 20-29-5-2. If the school corporation voluntarily recognizes an exclusive representative under IC 20-29-5-2, the school corporation may authorize a school within the transformation zone to opt out of bargaining allowable subjects or discussing discussion items by specifying the excluded items on the notice required under IC 20-29-5-2(b). Such notice must be provided to the education employment relations board at the time of the notice's posting.

(e) Subsection (d) applies only to a school that has been designated as a transformation zone following the third consecutive year in the lowest performance category or designation.

(f) All plans approved under this chapter shall be sent by the state board to the education employment relations board not later than fifteen (15) days after the plan's approval.

SECTION 15. IC 20-31-9.5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) At the time of the initial intervention or at any point during the intervention, the state board may approve a written request from a special management team to:

(1) expand the grades offered at the school occupied by the special management team; and

(2) operate a charter school managed by the special management team within the same facility;



if the state board determines that academic outcomes or financial sustainability of the turnaround academy will improve through implementing the request.

(b) A written request under subsection (a) must include all of the following:

- (1) An analysis of any building modifications that would be necessary to serve various ages of students and corporation approval of the modifications.
- (2) Plans for ensuring safety of younger aged students when the younger students are in shared space with older students.
- (3) Specific year by year academic goals for the original affected students and the additional grade levels of students, disaggregated by grade.

(c) The state board shall hold a public hearing, located in the facility proposed to be used, before approval of any request made under this section.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1638 — CC 1

